IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 9811 OF 2006

DATE OF DECISION: AUGUST 24, 2006

Parties Name

Smt. Surinder Kaur and others

..PETITIONERS

VERSUS

State of Punjab and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE PRITAM PAL

PRESENT: Mr. Sumeet Sharma,
Advocate, for the petitioners.

Mr. P.S.Chhina, Addl. A.G., Punjab,
for respondents No. 1 to 4.

Mr. Balwinder Singh, Advocate,
for respondent No. 5.

Mr. A.K.Sharma, Advocate,
for respondent No. 6.

JASBIR SINGH, J. (oral)

Order

This order will dispose of 17 writ petitions, i.e., Civil Writ Petitions No. 9811 to 9826 and 9875, all of the year 2006, as common question of law and facts arise in all these cases. For facility of dictating order, facts are being taken from C.W.P. No. 9811 of 2006.

In this writ petition, the petitioners have laid challenge to the order dated January 18, 2005 (Annexure P-3) and also to the orders dated November 29, 2005 (Annexure P-5) and March 29, 2006 (Annexure P-7). It

is apparent from the records that vide order dated January 18, 2005, award was passed against the petitioners in arbitration proceedings. It was allegation against them that their predecessor-in-interest, namely, Gurdayal Singh, who was Secretary of respondent No. 5, has accepted the amounts from various share holders, but had not deposited the same in the accounts of the Society, i.e., respondent No. 5. Their appeal was dismissed. They also lost in revision.

Before this Court, it has been said that when evidence of the Society was closed on January 18, 2005, no opportunity thereafter was given to the petitioners to lead their evidence. To verify this fact, original record of the arbitration was called and on perusal thereof, this fact was found to be correct and accordingly on July 25, 2006, following observation was made by this Court and then notice of motion was issued:

> "Record of the Arbitration cases has been produced in Court, a perusal thereof indicates that on 18.1.2005, when cross-examination of the witnesses of the opposite party was closed, no opportunity thereafter was given to the petitioners, to lead their evidence. The Arbitrator pronounced Award on that very date."

Today, at the time of arguments, when confronted with above mentioned situation, counsel for the respondents have failed to show anything to the contrary. It has not been brought to the notice of the Court that on January 18, 2005, when evidence of the Society was completed, any opportunity to lead evidence was given to the petitioners. Shri Chhina has very fairly stated that keeping in view the position explained above, let the matter be remanded to the Arbitrator for fresh decision.

Consequently, these writ petitions are allowed and the orders

under challenge are set aside and the matter is remitted to the Arbitrator to decide it afresh from the stage, of closing evidence of the Society, i.e., January 18, 2005. Deputy Registrar/ Assistant Registrar, Co-operative Societies, Ludhiana (East), is directed to appoint an Arbitrator within fifteen days from today. The Arbitrator shall issue a notice to both the parties to put up appearance before him. It is further directed that two effective opportunities be granted to the petitioners to lead their evidence and thereafter Arbitrator shall decide the matter within one month.

No order as to costs.

(Jasbir Singh)
Judge

(Pritam Pal)
Judge

August 24, 2006.
DKC